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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1885.

No. 1309. 871 ~~525~~ 244

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JOHN HASKELL BUTLER, ADMINISTRATOR; NATHANIEL BEACH, ELIZABETH R. BEACH, AND ANNA BEACH, APPELLANTS,

vs.

THE BOSTON AND SAVANNAH STEAMSHIP COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS.

FILED APRIL 3, 1886.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1895.

No. 1309.

JOHN HASKELL BUTLER, ADMINISTRATOR; NATHANIEL BEACH, ELIZABETH R. BEACH, AND ANNA BEACH, APPELLANTS,

vs.

THE BOSTON AND SAVANNAH STEAMSHIP COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS.

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United States of America.

MASSACHUSETTS DISTRICT, SS.

At a Circuit Court of the United States for the First Circuit, begun and holden at Boston within and for the District of Massachusetts, on Friday, the fifteenth day of May in the year of our Lord one thousand eight hundred and eighty-five.

Before the Honorable

LEBARON B. COLT, *Circuit Judge.*

IN ADMIRALTY.

JOHN HASKELL BUTLER, Administrator, et al.,

LIBELLANTS, APPELLANTS,

v.

BOSTON & SAVANNAH STEAMSHIP COMPANY,

DEFENDANTS, APPELLEES.

The Transcript of the Record of the District Court of the United States for this district is duly filed and entered at the present May term of this Court, A. D. 1885, and is in the words and figures following: —

UNITED STATES of AMERICA,
MASSACHUSETTS DISTRICT, SS.

At the District Court of the United States begun and holden at Boston, within and for the District of Massachusetts, on the third Tuesday (being the seventeenth day) of March, in the year of our Lord, one thousand eight hundred and eighty-five.

Before the Honorable

THOMAS L. NELSON, *Judge.*

JOHN HASKELL BUTLER, *Administrator,* ET ALS., *Libellants,*

v.

THE BOSTON AND SAVANNAH STEAMSHIP COMPANY, *Respondents.*

This libel was filed in Court on the twenty-seventh day of September, A. D. 1884, and is as follows, viz.: —

LIBEL.

IN ADMIRALTY.

DISTRICT COURT OF THE UNITED STATES.

DISTRICT OF MASSACHUSETTS.

JOHN HASKELL BUTLER, *adm'r*, ET ALS. *v.* THE BOSTON AND SAVANNAH STEAMSHIP COMPANY.

To the Honorable THOMAS L. NELSON, *Judge of the District Court of the United States, within and for the District of Massachusetts:*—

John Haskell Butler, administrator of Somerville in said District, and Nathaniel Beach, and Elizabeth R. Beach, both of Mansfield in the State of Connecticut, and Anna Beach of Newark, New Jersey, exhibit this their libel against the Boston and Savannah Steamship Company, a corporation organized under the laws of the State of Massachusetts, and having their usual place of business, and being located at Boston in said District of Massachusetts, in an action of tort and contract. And thereupon they allege and articulately propound as follows, to wit:—

First. That the said Nathaniel Beach was, by the Probate Court of the District of Mansfield, in the State of Connecticut, duly appointed the administrator of the estate of Elizabeth R. Beach, single woman, late of said Mansfield, Connecticut, and that the said John Haskell Butler was duly appointed the ancillary administrator of the said estate, by the Probate Court within and for the County of Suffolk, in the State of Massachusetts; and that said Nathaniel Beach is the father of the said Elizabeth R. Beach, deceased, and that the said Elizabeth R. Beach, one of these libellants, is the niece of the said deceased, and was dependent upon the said deceased for her support, and that the said Anna Beach is the aunt of the deceased, and the sister of the said Nathaniel Beach.

Second. That on the 17th day of January, A. D. 1884, the said Elizabeth R. Beach, deceased, took passage at Boston, in the State of Massachusetts, on the steamship "City of Columbus,"

to proceed in her from said Boston to Savannah, Georgia; that said vessel was a steamship of about 2000 tons; that she was then owned, operated and used by the said Boston and Savannah Steamship Company, as a steamship for the carriage of passengers for hire and merchandise, and as a common carrier of passengers between said Boston and Savannah; that she regularly plied between said places, engaged in the business aforesaid; that she left Boston on said 17th day of January, bound to said Savannah, and that she carried on said trip over 100 passengers, who paid fare for their passage, and for their board and lodging during the passage; that she was regularly fitted up as a steamer for the carriage of passengers; that she was furnished with a large and commodious cabin, state-rooms and steerage devoted to the use of passengers, and was in all respects arranged with reference to her internal accommodations, as a passenger-carrying steamship. That on said 17th of January, said Boston and Savannah Steamship Company contracted at said Boston, with said Elizabeth R. Beach, deceased, to carry her from said Boston, to St. Augustine, in the State of Florida, and as far as said Savannah as a cabin passenger in said steamship, and the rest of the way by land; and that she paid said Company the sum of $ for said passage, and on said day proceeded in said vessel in pursuance of said contract, carrying with her luggage or baggage.

Third. That while said steamship was proceeding on the trip, bound as aforesaid, and with said Elizabeth R. Beach as a passenger on board, said steamship ran aground in the night time upon the shore of Martha's Vineyard, and thereafter sank and became a wreck.

Fourth. That there was negligence on the part of those employed by the said Boston and Savannah Steamship Company, in the grounding and wrecking of said steamship; that the night was clear, and with abundant moonlight; that the coast was well lighted with light-houses, and could be easily seen for a considerable distance with the naked eye; that there was not a very heavy wind or sea; but that said steamship while on said passage, proceeded nearer the shore, than was prudent or skillful, struck the bottom, sank, and became broken and wrecked; and that about 100 of the persons on

board of her, including both passengers and crew, were lost and drowned.

Fifth. That after said vessel struck, no proper measures were taken by the officers and crew to save the passengers by the means of the boats, or to provide properly for the safety of the passengers; and that upon the happening of the disaster, and thereafter, there was great inefficiency in the discipline of the officers and crew of the vessel; and that their conduct on that occasion showed a want of drill, and proper regulation for such an emergency.

Sixth. That at the time of the disaster, the second mate, by the name of Harding, was in charge of the ship; that he was not a pilot for the waters upon which the ship was then going, and that it was a part of the regular duty of said second mate, and without the aid of a pilot, to take charge of said ship, while on said trips, alternately with the first mate, and that it was an omission of duty on the part of the owner of said steamship to entrust to said second mate the charge of said ship, especially in the night-time, without the aid of a special pilot; and that said owner should have provided a special pilot or pilots to be at all times on duty upon said ship during said voyage, which the said owner failed and neglected to do; and that no pilot was on duty on said ship at the time of the disaster.

Seventh. That there was not proper apparatus upon said vessel for the launching of the boats; and that there was an omission of duty on the part of the owner of said vessel, in that regard.

Eighth. That said ship was not properly constructed in respect to bulkheads and otherwise; and that it was an omission of duty on the part of the owner thereof, to allow said ship to proceed to sea with passengers for hire on board, without remedying said defects in the construction of the ship.

Ninth. That among the persons who were lost and drowned in the catastrophe aforesaid, was the said Elizabeth R. Beach.

Tenth. That there was unfitness, gross negligence, or carelessness on the part of the servants or agents of the said Steamship Company, who were engaged in navigating the ship at the time of the disaster; and that there was such unfitness,

gross negligence, or carelessness in the conduct of the said servants or agents in causing or allowing said steamship to proceed so near the shore and to strike the bottom; and that there was such unfitness, gross negligence, or carelessness on the part of the servants or agents of the said Steamship Company, in not taking proper measures to save the passengers by means of the boats, or to provide properly for the safety of the passengers; and that there was unfitness, gross negligence, or carelessness, on the part of the servants or agents of said Steamship Company, as displayed in the inefficiency of the discipline of the officers and crew of the vessel.

Eleventh. That there was negligence or carelessness of the proprietor of said steamboat, in entrusting said second mate with the charge of said ship, especially in the night-time, without the aid of a special pilot, and in not providing a special pilot or pilots to be on duty at the time the second mate was on duty, and at the time of his having charge of the ship when the disaster occurred; and that there was negligence or carelessness of the said proprietor in the particulars set forth in the seventh (7th) and eighth (8th) articles of this libel; and in respect to the inefficiency of the discipline of the officers and crew of the vessel, as above set forth.

Twelfth. That the law of the State of Massachusetts, as contained in the Public Statutes of Massachusetts, Ch. 73, Sect. 6, is, and at the time of the disaster was, as follows: "If the life of a passenger is lost, by reason of the negligence or carelessness of the proprietor or proprietors of a steamboat, or stage-coach, or of common carriers of passengers, or by the unfitness or gross negligence or carelessness of their servants or agents, such proprietor or proprietors and common carriers shall be liable in damages not exceeding five thousand, nor less than five hundred dollars, to be assessed with reference to the degree of culpability of the proprietor or proprietors or common carriers liable, or of their servants or agents, and recovered in an action of tort, commenced within one year from the injury causing the death, by the executor or administrator of the deceased person, for the use of the widow and children of the deceased, in equal moieties, or if there are no children, to the use of the widow, or, if no widow, to the use of the next of kin."

Thirteenth. That after said vessel struck, said Elizabeth R. Beach suffered great mental and bodily pain and misery upon the vessel, and thereafter fell, or was washed into the sea and drowned.

Fourteenth. That said Elizabeth R. Beach, deceased, had clothing upon her person, together with luggage or baggage, all of the value of $150, all of which were lost.

Fifteenth. That by virtue of the premises, and under the general admiralty jurisprudence of the United States, the libellants are entitled to recover the sum of fifty thousand dollars ($50,000), and by virtue of the statute of Massachusetts aforesaid, the sum of five thousand dollars ($5,000).

Sixteenth. That all and singular, the premises are true, and within the admiralty and maritime jurisdiction of this Honorable Court.

Wherefore, the libellants pray that a monition in the nature of a summons to appear and answer to the suit, may issue to the said Boston and Savannah Steamship Company, citing them to appear and answer, upon oath, all and singular the matters so articulately propounded, and that this Honorable Court would be pleased to pronounce for the damages aforesaid with costs, and to decree such other relief to the libellants as shall to law and justice appertain, and as to your Honor shall seem meet.

NATHANIEL BEACH,
ELIZABETH R. BEACH,
ANNA BEACH,
By their Attorney,
JOHN HASKELL BUTLER.

FRANK GOODWIN,
EUGENE P. CARVER,
JOHN HASKELL BUTLER,
Proctors.

JOHN HASKELL BUTLER, *Administrator.*

SUMMONS.

Thereupon, on said 27th day of September, A. D. 1884, by order of the Judge, a summons issued, commanding the Marshal to summon the said Boston and Savannah Steamship Company (if they might be found in his precinct) to appear before the District Court of the United States, to be holden at Boston,

within and for the Massachusetts District, on Friday, the tenth day of October next, at ten o'clock A. M., then and there to answer to the foregoing libel, and to make due return of his doings into Court.

And the Marshal made return as follows, viz.: —

UNITED STATES OF AMERICA,
MASSACHUSETTS DISTRICT ss.

BOSTON, Sept. 27, 1884.

Pursuant hereunto, I have this day summoned the within named Boston and Savannah Steamship Company, to appear before the District Court of the United States, as within directed, by delivering in hand to F. W. Nickerson, the Treasurer of said Company, a duly attested copy of this precept.

N. P. BANKS, *U. S. Marshal,*
BY W. D. POOL, *Deputy.*

On the tenth day of October, A. D. 1884, the following Exception and Plea of Respondent were filed in Court, viz.: —

DISTRICT COURT OF THE UNITED STATES.

DISTRICT OF MASSACHUSETTS.

IN ADMIRALTY.

JOHN HASKELL BUTLER, *admr.*, ET ALS.
v.
THE BOSTON AND SAVANNAH STEAMSHIP COMPANY.

To Hon. THOMAS L. NELSON, *Judge of said Court:*

THE EXCEPTION AND PLEA

OF SAID BOSTON AND SAVANNAH STEAMSHIP COMPANY, RESPONDENT, TO THE LIBEL OF JOHN HASKELL BUTLER, ADMINISTRATOR, AND OTHERS.

The said Boston and Savannah Steamship Company, not admitting, but denying the allegations and matters set forth

in said libel, except as hereinafter expressly admitted, make plea and exception thereto as follows: —

First. That all the loss, damage, injury and claim alleged in said libel were occasioned and incurred by, or arose out of, the stranding and sinking of the steamship "City of Columbus," owned by the respondent, and by the acts, matters and things, done, occasioned or incurred on board of said Steamship, at or near Martha's Vineyard, on the eighteenth day of January, A. D. 1884.

Second. Thereafter, after certain actions at law had been commenced by one James Brown and one Sherrington Vance, against the respondent, in the Superior Court for the Commonwealth of Massachusetts, in and for the County of Suffolk, returnable at the ensuing April Term of said Court to recover damages for losses occasioned and incurred by such stranding and sinking— the respondent, as owner of said steamship, desiring to claim and have the benefit of the limitation of liability, provided in Section 4283 of the Revised Statutes of the United States for all loss of life or property, or destruction, damage or injury, by reason of, or caused by, or arising out of such stranding and sinking, and desiring and claiming to have the question of its right to such limitation, decided by this Honorable Court, as the only tribunal having jurisdiction thereof, filed, to wit, on the 18th day of February, 1884, in this Court, pursuant to said statute and the Rules of the Supreme Court of the United States in that behalf, its libel or petition setting forth the facts and circumstances on which limitation of liability for such loss, destruction and damage was claimed, and offering to pay into said Court the amount or value of the interest of the respondent as owner in said vessel and her freight then pending, or to give a stipulation with sureties for the payment thereof into Court, whenever the same shall be ordered, — and praying proper relief in the premises, and for a due appraisement to be had of the amount or value of the interest of the respondent in said steamship and her freight for said voyage, offering to pay into Court, or stipulate for the payment of the same as aforesaid, — and also praying for a monition against said Brown and Vance, and against all persons making or alleging any claim against

said steamship, or this respondent as owner thereof, by reason of the stranding and sinking of said steamship, as in its said libel alleged, citing them to appear before this Court and make due proof of their respective claims, at a time to be named in said writ. And thereupon this Honorable Court caused due appraisement to be had of the amount or value of the interest of said owner in said steamship, and her freight for the voyage, and made an order for the payment of the same into Court, or for the giving of a stipulation with sureties for payment thereof into Court, whenever the same shall be ordered. And thereupon on the 28th day of said February, proper stipulation with sureties for such payment, was made and given by the respondent. And upon compliance with said order, this Honorable Court, to wit, on said 28th day of February, 1884, issued a monition against said Brown and Vance, and against all persons claiming damages for any loss of life or property or destruction, damage or injury by reason of, or caused by, or arising out of said striking on the rocks, stranding and sinking as aforesaid, citing them to appear before this Court at the United States Court House in Boston, in said District of Massachusetts, on Tuesday, the first day of July, 1884, at ten o'clock in the forenoon, and make due proof of their respective claims in the premises; and said monition was served and public notice of it given as ordered by this Court. And thereafter on the 4th day of March, 1884, this Honorable Court, on the application of said owner, made an order that the further prosecution of all and any suit or suits against said Company, owner of said steamship "City of Columbus," in respect of any such claim or claims for any loss, destruction, damage or injury by reason of, or caused by, or arising out of the loss, damage and acts in said libel or petition set forth, be restrained; and said order was served and public notice of it given, as ordered by this Court; all of which matters and things are, and remain of record in this Honorable Court, in the libel or petition of the Boston and Savannah Steamship Company for limitation of liability against said Brown, *et al.*, and to the record thereof, so remaining in this Court, when the same is produced, the respondent claims leave to refer.

And by reason of the acts and record aforesaid, the libel-

lants had and have no legal right or claim to bring, commence or prosecute their libel in this cause, or any separate suit, and this Honorable Court has no jurisdiction to entertain or hear said libel; and the bringing and filing thereof were in violation and contempt of the injunction and restraining order of this Honorable Court as aforesaid, and the libellants could legally proceed and make and prosecute their claim for the matters, damages and injuries alleged in said libel only in and under the said libel or petition of the respondent for limitation of liability on account of said losses, destruction and damages now pending in this Honorable Court.

Wherefore the respondent prays judgment whether it is bound to make further answer to said libel, and that said libel may be dismissed with costs.

BOSTON AND SAVANNAH S. S. COMPANY,
By JOS. B. RUSSELL, *Secretary.*

C. T. AND T. H. RUSSELL,
Proctors for Respondent.

Subscribed and sworn to by Joseph B. Russell, Secretary of the Boston and Savannah S. S. Company, on this 10th day of October, 1884, at Boston, Mass., before me,—

CHAS. THEO. RUSSELL, JR.,
[SEAL.] *Notary Public.*

This libel was entered at the September Term of this Court, A. D 1884, and thence was continued to the December Term thereof, A. D. 1884, when on the 16th day of December, A. D. 1884, the following Replication by way of amendment, or amendment to the libel, was filed in Court, and allowed by consent, viz.: —

REPLICATION.

IN ADMIRALTY.

DISTRICT COURT OF THE UNITED STATES.

DISTRICT OF MASSACHUSETTS.

JOHN HASKELL BUTLER, *adm'r*, ET AL.
vs.
THE BOSTON AND SAVANNAH STEAMSHIP CO.

And now come John Haskell Butler, administrator, and the other libellants in said cause, and without waiving anything in their said libel contained, do by way of replication, or by way of amendment to their said libel, amend their said libel as follows:—

They aver that the Revised Statutes of the United States, § 4401, being an embodiment of Section 51 of the Act of Congress of Feb'ry 28th, 1871, namely, 16 Statutes at Large, Ch. 100, Sect. 51, p. 455, provides as follows: — "All coastwise, sea-going vessels, and vessels navigating the great lakes, shall be subject to the navigation laws of the United States, when navigating within the jurisdiction thereof; and all vessels propelled in whole or in part by steam, and navigating as aforesaid, shall be subject to all the rules and regulations established in pursuance of law, for the government of steam vessels in passing, as provided by this title; and every coastwise, sea-going steam vessel, subject to the navigation laws of the United States, and to the rules and regulations aforesaid, not sailing under register, shall, when under way, except on the high seas, be under the control and direction of pilots licensed by the inspector of steamboats;" and they aver that the Revised Statutes of the United States, § 5344, being an embodiment of Section 57 of the Act of Congress of Feb. 28, 1871, namely, 16 Statutes at Large, Ch. 100, Sect. 57, p. 456, provides as follows: "Every captain, engineer, pilot, or other person employed on any steamboat or vessel, by whose misconduct, negligence, or inattention to his duties on such vessel, the life of any person is destroyed, and every owner, inspector, or other public officer, through whose fraud, connivance, misconduct, or violation of law the life of any person is destroyed, shall be deemed guilty of manslaughter,

and upon conviction thereof before any Circuit Court of the United States, shall be sentenced to confinement at hard labor for a period of not more than ten years;" and they aver that Section 43 of said Statute of A. D. 1871, and of said Ch. 100, provides that "whenever damage is sustained by any passenger or his baggage, from explosion, fire, collision, or other cause, the master and the owner of such vessel, or either of them, and the vessel, shall be liable to each and every person so injured, to the full amount of damages, if it happens through any neglect or failure to comply with the provisions of law herein prescribed, or through known defects or imperfections of the steaming apparatus, or of the hull." And they aver that the said Section 43, as embodied in the Revised Statutes of the United States, § 4493, provides that "whenever damage is sustained by any passenger or his baggage, from explosion, fire, collision, or other cause, the master and the owner of such vessel, or either of them, and the vessel, shall be liable to each and every person so injured, to the full amount of damage, if it happens through any neglect or failure to comply with the provisions of this title, or through known defects or imperfections of the steaming apparatus, or of the hull."

And they aver that said Sections 4401 and 4493, are in Title 52 of the Revised Statutes of the United States; and that said Section 5344 is in Title 70 of the Revised Statutes of the United States.

And they further aver that said steamer "City of Columbus" was, when she ran aground and became a wreck, a coastwise, sea-going steam-vessel, subject to the navigation laws of the United States, and was navigating within the jurisdiction thereof, and was subject to all the said rules and regulations specified in said Section 4401 of the Revised Statutes of the United States, and in said Section 51; that she was not sailing under register; that when said catastrophe happened she was under way, and was within the waters of the State of Massachusetts, and was not upon the high seas, and that she was not under the control and direction of pilots, or of a pilot licensed by the inspectors of steamboats.

And they further aver that there was connivance, misconduct or violation of law on the part of the owner of said vessel,

in not providing or procuring said vessel to be under the control and direction of a pilot or pilots licensed by the inspectors of steamboats, as above set forth, and in the particulars set forth in the libel to which this is an amendment; and that there was misconduct, negligence, or inattention to his duties on the part of the captain, second mate, or other person or persons employed on said vessel, and that by such connivance, misconduct, or violation of law on the part of the owner, and by such misconduct, negligence or inattention to his duties on the part of the captain, second mate, or other person or persons employed on said vessel, the life of the said Elizabeth R. Beach was destroyed; and that the damage sought to be compensated in this action happened as above set forth, through the neglect or failure to comply with the said provisions of law, or through known defects or imperfections of the hull of said vessel.

And they further aver, that among other misconduct, negligence or inattention to his duties on the part of the captain, it was such misconduct, negligence or inattention to his duties to intrust the control and direction of the said vessel to the said second mate, who was not a pilot, or qualified or competent to act as a pilot, and who was not licensed as a pilot by the inspectors of steamboats; and that among other misconduct, negligence or inattention to his duties on the part of the said second mate, as set forth in the libel, to which this is an amendment, there was such misconduct, negligence or inattention to his duties in accepting or undertaking the control and direction of said vessel, especially in the night-time.

And that there was such misconduct, negligence or inattention to his or their duties on the part of the servants or agents of said Steamboat Company, who were engaged in navigating the ship at the time of the disaster, in causing or allowing said steamship to proceed so near the shore and to strike the bottom; and in not taking proper measures to save the passengers by means of the boats, or to provide properly for the safety of the passengers, and as displayed in the inefficiency of the discipline of the officers and crew of the vessel.

JOHN HASKELL BUTLER
and other Libellants, by
EUGENE P. CARVER,
Their Attorney.

FRANK GOODWIN,
EUGENE P. CARVER,
JOHN HASKELL BUTLER,
Proctors.

In the above-entitled cause, the following facts are agreed:—

STATEMENT OF AGREED FACTS.

(1.) Except as relieved or affected by the limited liability Act of 1851 (U. S. Rev. Stat. ss. 4283-5), and the Rules of the U. S. Supreme Court thereunder, the respondent, ship-owner, is liable for all loss and damage caused by the stranding of said steamship "City of Columbus."

(2.) The respondent claims that the captain was in charge of the ship at the time of the disaster.

(3) Said loss and damage were without the privity and knowledge of the respondent, the Boston and Savannah Steamship Company, the sole owner of said steamship.

(4.) Said steamship was a coastwise, sea-going vessel, under enrolment, and was, at and before the time of loss, subject to all the laws and rules of navigation applicable to such vessels; and at the time of loss was on a voyage from Boston to Savannah, Georgia, and proceeding through Vineyard Sound, stranding on Devil's Bridge, off and near Gay Head, Martha's Vineyard.

FRANK GOODWIN,
EUGENE P. CARVER,
Proctors for Libellants.
C. T. & T. H. RUSSELL,
Proctors for Respondent.

DECREE.

From said December term, A. D. 1884, this libel was continued to this present term. And now on this 10th day of April, A. D. 1885, the following decree is made by the Court, viz.:—

This cause was heard upon libel and respondent's exceptions thereto, and upon agreed facts; and it appearing to the Court that the record alleged in said exceptions exists, it is thereupon ordered, adjudged and decreed that the exceptions be sustained, and the libel dismissed with costs.

APPEAL.

On said 10th day of April, A. D. 1885, the following Prayer for an appeal is filed in Court, viz:—

IN ADMIRALTY.

DISTRICT COURT OF THE U. S.

DISTRICT OF MASS.

JOHN HASKELL BUTLER, *Adm'r*, ET ALS. *v.* THE BOSTON AND SAVANNAH STEAMSHIP COMPANY.

And now come the libellants in the above cause and claim an appeal from the decree of the Court therein, and pray that their appeal may be allowed.

By their attorney and proctor, Frank Goodwin. And thereupon said appeal is allowed by the Court.

I, Elisha Bassett, Deputy Clerk of the District Court of the United States for the Massachusetts District, hereby certify that the foregoing is a transcript of the record of the said Court in the said cause made up pusurant to Admiralty Rule 53. In witness whereof, I have hereto subscribed my name and affixed the seal of said Court this twenty-first day of April, A. D. 1885.

ELISHA BASSETT,

[SEAL] *Deputy Clerk.*

This cause, entered as aforesaid, at the May Term of said Circuit Court, A. D. 1885, is set down for hearing and fully heard by the Court, the Honorable Horace Gray, Associate Justice, and the Honorable LeBaron B. Colt, Circuit Judge, sitting.

On the thirtieth day of September, A. D. 1885, the Honorable Horace Gray, Associate Justice, and the Honorable LeBaron B. Colt, Circuit Judge, sitting, it is ordered, adjudged and decreed by the Court that the Decree of the District Court in this cause be, and the same is hereby affirmed, that the appeal of

said Libellants be dismissed, that said libel be dismissed, and that the said Boston and Savannah Steamship Company, Appellees, recover of the said John Haskell Butler, Administrator, Nathaniel Beach, Elizabeth R. Beach and Anna Beach, Libellants and Appellants, the sum of

costs.

From this decree the Libellants claim an appeal to the Supreme Court of the United States, and give good and sufficient security that they will prosecute their appeal to effect, and answer all damages and costs, if they fail to make their plea good, and said appeal is allowed.

A true record:

Attest: JOHN G. STETSON, *Clerk.*

CIRCUIT COURT OF THE UNITED STATES.

DISTRICT OF MASSACHUSETTS.

IN ADMIRALTY.

JOHN HASKELL BUTLER, *Adm'r*, ET AL.,

v.

THE BOSTON AND SAVANNAH STEAMSHIP CO.

ASSIGNMENT OF ERRORS AND PRAYER FOR REVERSAL.

And now come the libellants and appellants, and assign for error that the plea and exceptions of the respondents and appellees ought to have been overruled, and that the libel should not have been dismissed; and they pray that said plea and exceptions may be overruled, and that said libel may be ordered to stand for trial.

By their Proctors and Attorneys.

FRANK GOODWIN.
EUGENE P. CARVER.

UNITED STATES OF AMERICA,

DISTRICT OF MASSACHUSETTS, SS.

I, John G. Stetson, Clerk of the Circuit Court of the United States, for the First Circuit and District of Massachusetts, certify that the foregoing is a true copy of the record of said Circuit Court in the cause entitled

JOHN HASKELL BUTLER, *Administrator*, ET AL.,
LIBELLANTS, APPELLANTS,

v.

BOSTON & SAVANNAH STEAMSHIP COMPANY,
DEFENDANTS, APPELLEES,

lately determined in said Circuit Court, and of all proceedings therein, and of the Prayer for Reversal and Assignment of Errors filed therein.

In testimony whereof, I hereunto set my hand, and affix the seal of the said Circuit Court at Boston, in said District, this eleventh day of March, in the year of our Lord one thousand eight hundred and eighty-six, and of the Independence of the United States the one hundred and tenth.

[SEAL]

JOHN G. STETSON, *Clerk.*

BOND TO PARTY ON APPEAL.

Know all Men by these Presents,

That we, John Haskell Butler, Administrator, of Somerville, as Principal, and Arnold A. Rand of Boston, and Edward L. Rand of Cambridge, as Sureties, all in the State of Massachusetts, are held and firmly bound unto the Boston and Savannah Steamship Company, a corporation duly organized under the laws of the State of Massachusetts, in the full and just sum of Two Hundred Dollars, to be paid to the said Boston and Savannah Steamship Company, a corporation organized under the laws of the State of Massachusetts, its certain Attorneys, Successors or Assigns; to which payment well and truly to be made we bind ourselves, our Heirs, Executors, and Administrators, jointly and severally, by these Presents.

Sealed with our seals, and dated the sixth day of February, in the year of our Lord one thousand eight hundred and eighty-six.

Whereas lately at a Circuit Court of the United States, within and for the District of Massachusetts, in a suit in Admiralty depending in said court between the said John Haskell Butler, Administrator, and Nathaniel Beach and Elizabeth R. Beach, both of Mansfield, Connecticut, and Anna Beach of Newark, New Jersey, Libellants and Appellants, and the said Boston and Savannah Steamship Company, Appellees, decree was rendered against the said Libellants and Appellants, and the said Libellants and Appellants, having obtained an appeal to remove the said cause to the Supreme Court of the United States to reverse the decree in the aforesaid suit, and a citation directed to the said Boston and Savannah Steamship Company, citing and admonishing it to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October next.

Now the condition of the above obligation is such, that if the said John Haskell Butler, Administrator, Nathaniel Beach, Elizabeth R. Beach and Anna Beach, Libellants, Appellants, shall prosecute their said appeal to effect, and answer all damages and costs if they fail to make their plea good, then the above obligation to be null and void; otherwise to remain in full force and virtue.

JOHN HASKELL BUTLER. [L. S.]
ARNOLD A. RAND. [L. S.]
EDWARD L. RAND. [L. S.]

Signed, sealed and delivered in presence of
A. H. TROWBRIDGE.

Approved:
LEBARON B. COLT,
U. S. Circuit Judge.

A true copy of the bond taken by the Judge at the time of allowing the Appeal named in said bond, which bond is on file in the office of the clerk of the Circuit Court of the United States, for the First Circuit and District of Massachusetts.

Attest: JOHN G. STETSON,
Clerk U. S. C. C., Mass. Dist.

CITATION.

THE UNITED STATES OF AMERICA.

To the Boston and Savannah Steamship Company, a corporation organized under the laws of the State of Massachusetts, GREETING:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the second Monday of October next, pursuant to an appeal claimed and allowed by the Circuit Court of the United States for the District of Massachusetts, in a cause in admiralty wherein John Haskell Butler, Administrator, of Somerville, Massachusetts, Nathaniel Beach and Elizabeth R. Beach, both of Mansfield, Connecticut, and Anna Beach of Newark, New Jersey, are Libellants and Appellants and you are defendants, to show cause, if any there be, why the decree rendered against the said Libellants and Appellants should not be reversed, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable LeBaron B. Colt, United States Circuit Judge for the First Judicial Circuit, this tenth day of February, in the year of our Lord 1886.

LEBARON B. COLT,
U. S. Circuit Judge,
First Judicial Circuit.

FEB. 11th, 1886.

We acknowledge service upon the Boston and Savannah SS. Co., of the foregoing citation.

C. T. & T. H. RUSSELL, *Proctors*
for Boston & Savannah SS. Co.

Endorsed on cover: Massachusetts C. C. U. S. No. 1309. John Haskell Butler, administrator; Nathaniel Beach, Elizabeth Beach and Anna Beach, appellants, *vs.* The Boston & Savannah Steamship Company. Filed April 3, 1886.